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SJC-13135

VEENA SHARMA vs. COUNTY MORTGAGE, LLC.

March 10, 2022.

Supreme Judicial Court, Superintendence of inferior courts.
Mortgage, Foreclosure. Practice, Civil, Venue.

Veena Sharma appeals from a judgment of the county court, denying, without a hearing, her request to transfer to this court a civil action currently pending in the Superior Court. We affirm.

In the pending Superior Court case, Sharma alleged that she had been the victim of predatory lending practices in connection with the mortgage on her home, and she moved to enjoin an imminent foreclosure. That motion was denied by a judge in the Superior Court. In addition, the judge, acting sua sponte, dismissed Sharma's complaint for failure to state a claim on which relief could be granted. That dismissal was reversed by the Appeals Court, and the matter was remanded to the Superior Court for further proceedings. Sharma v. County Mtge., LLC, 97 Mass. App. Ct. 1126 (2020). On remand, Sharma filed a motion for a change of venue to a different county. A different judge denied that motion for failure to comply with Superior Court Rule 9A. Sharma thereafter filed a new motion for a change of venue, which was likewise denied for failure to comply with Superior Court Rule 9A.¹ Sharma's petition to the county court ensued. In that petition, Sharma sought a transfer to this court, alleging that she could not get a fair hearing in the Superior Court. Treating her petition as one seeking relief

¹ A motion to dismiss is now pending in the underlying Superior Court case. We express no view on the merits of that motion.

under G. L. c. 211, § 3, the single justice denied relief without a hearing.

"Relief under G. L. c. 211, § 3, is extraordinary. We will not disturb the single justice's denial of such relief absent an abuse of discretion or other clear error of law." C.E. v. J.E., 472 Mass. 1016, 1016 (2015), quoting Bledsoe v. Commissioner of Correction, 470 Mass. 1017, 1017 (2014). To conclude that such an error or abuse of discretion occurred here, we would have to find that the single justice was obligated to transfer Sharma's case from the Superior Court to this court. Although the single justice had the authority to do so, G. L. c. 211, § 4A, the decision whether to do so is discretionary. See Stow v. Commonwealth, 423 Mass. 1002 (1996). There is no basis to find that the single justice was required to exercise that authority in this case, and no indication that he abused his discretion in declining to do so.

Moreover, to the extent Sharma's petition can be read as seeking relief from the denials of her motions for a change of venue in the Superior Court,² relief was properly denied on the ground that Sharma had adequate remedies in the ordinary appellate process. See, e.g., C.E., 472 Mass. at 1016. Sharma offers no reason why she could not obtain review of those denials on appeal after a final judgment in the Superior Court. In addition, Sharma could have sought immediate interlocutory review by filing a petition for relief under G. L. c. 231, § 118, first par., to be considered by a single justice of the Appeals Court. "Review under G. L. c. 211, § 3, does not lie where review under c. 231, § 118, would suffice." Greco v. Plymouth Sav. Bank, 423 Mass. 1019, 1019-1020 (1996). The single justice neither erred nor abused his discretion by denying extraordinary relief.

Judgment affirmed.

The case was submitted on briefs.
Veena Sharma, pro se.
Rosemary Traini for the defendant.

² If Sharma was seeking relief from these or any other interlocutory rulings of the Superior Court, she was obligated to comply with the provisions of S.J.C. Rule 2:21, as amended, 434 Mass. 1301 (2001), before filing her brief. She did not do so.